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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/812,908

03/31/2004

Gavriel J. Iddan

P-5811-US

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49443 7590 11/28/2007  
PEARL COHEN ZEDEK LATZER, LLP  
1500 BROADWAY 12TH FLOOR  
NEW YORK, NY 10036

EXAMINER

ROZANSKI, MICHAEL T

ART UNIT

PAPER NUMBER

3768

MAIL DATE

DELIVERY MODE

11/28/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/812,908

Applicant(s)

IDDAN, GAVRIEL J.

Examiner

Michael Rozanski

Art Unit

3768

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 October 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 4-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 4-33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 September 2004 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

***Claims 1-2, 3-6, 8-11, and 29-33*** are rejected under 35 U.S.C. 102(b) as being anticipated by Mizumoto (US 4,278,077).

Mizumoto discloses an in vivo capsule-shaped miniature camera having a longitudinal axis wherein the embodiment of Figure 7 comprises a permanent magnet 35 located off the longitudinal axis. The permanent magnet 35 functions as a ballast. A ballast is simply a metal with a weight that is able to stabilize an object, in this case an in vivo device. The portion of the envelope 34 located diametrically opposite the magnet 35 does not have any structures that would serve to counterbalance the center of gravity of the device. Therefore, the magnet 35 induces a shift in the center of gravity of the device. Clearly, this is different from the embodiment shown in Figure 1 whereby the permanent magnet components 12a and 12b are located proportionally on the anterior and posterior ends of the capsule. This configuration does not permit the magnets to act a ballast that shifts the center of gravity off the longitudinal axis (col 4, lines 8-19). In addition, paragraph [0032] of Applicant's specification cites the following:

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"Other weights and materials may be used for a ballast 40 or weight, and a ballast 40 or weight may have other configurations. For example, one or more separate units may be used for such a ballast 40 or weight. In some embodiments, ballast 40 may be or include an active component of device 30 such as for example transmitter 18 or a battery 19 or other component that may also serve a functional role in the operation of device 30. The placement of one or more components of device 30 for example towards or away from a longitudinal axis 41 of symmetry of device 30 may be sufficient for such components to serve as a ballast 40."

This passage indicates that Applicant is aware that different structural components of a device can serve multiple functions and that these components can shift the center of gravity of a device. This is the case with the permanent magnet disclosed by Mizumoto. Further, having the center of gravity shifted such that gravitation pulls the magnet side close to the lower wall of a lumen would be desired by the Mizumoto device because the device images the area perpendicular to the longitudinal axis opposite the magnet 35 (see Figure 7). The magnet 35 also functions to permit moving the device to a desired position dependent upon the direction of the magnetic field created by electromagnetic 22a and 22b (col 2, lines 43-55).

Mizumoto also discloses an imager whereby everytime the lamp 15 is turned on, an image of the body cavity is focused on a film 18 in the film box 19. This imaging system is displaced from the longitudinal axis of the capsule. The envelope 34 comprises a pinhole 36 and a window both covered with transparent panes. This comprises the optical system.

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claim 7** is rejected under 35 U.S.C. 103(a) as being unpatentable over Mizumoto in view of Miyazaki (US patent No.6184923).

Mizumoto teaches all the elements of the current invention except for expressly disclosing a magnifying device. In the same field of endeavor, Miyazaki teaches an additional component to an in-vivo imaging device which can be added in order to magnify the images (Col.5 Lns 1-15). At the time of the invention it would have been obvious to a person of ordinary skill in the art to modify Mizumoto to include a magnifying device, in order to provide multiple kinds of image observation of the imaging device, (Col.2 Ln.19-30).

**Claims 12-22, 24-26, and 28** are rejected under 35 U.S.C. 103(a) as being unpatentable over Mizumoto in view of Mullick et al (USPN 7,039,453).

Mizumoto discloses an imager whereby everytime the lamp 15 is turned on, an image of the body cavity is focused on a film 18 in the film box 19. This imaging system is displaced from the longitudinal axis of the capsule. The envelope 34 comprises a pinhole 36 and a window both covered with transparent panes. This comprises an optical system to image in a direction parallel to a transverse portion of the device. Mizumoto also describes a permanent magnet 35 that functions as a ballast. The

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transverse-side imaging system may also include a lens 16 (see Figure 1) for directing light reflected from a circular field of view and off a ring shaped slice of an in vivo area, thereby being capable of capturing a panoramic image.

Mizumoto does not disclose another imager to image in a direction parallel to an axial portion of the device. In the same field of endeavor, Mullick et al teach of an ingestible imaging capsule that images an in vivo area in a direction parallel to and in front of an axial portion of the device. The device also comprises a transmitter to transmit image data on one or more channels (Col.4, Ln. 6-17). It would have been obvious to one with ordinary skill in the art at the time the invention was made to modify transverse-side imaging of Mizumoto to include an optical system to image in a direction parallel to an axial portion of the device as this would be applying a known technique to a known device ready for improvement to yield predictable results. The combination is desirable because the Mizumoto device is used to image out of a transverse side while the capsule is settled on the bottom wall of a lumen (see stomach in Figure 3), while the Mullick et al device is used to image in a forward direction while the capsule is passing through the digestive tract (i.e. the intestinal tract). Since the capsules are passed through both the stomach and intestines, such a device that applies a known technique to a known device for capturing images in both instances would be useful.

**Claims 23 and 27** are rejected under 35 U.S.C. 103(a) as being unpatentable over Mizumoto and Mullick et al, in view of Miyazaki (US patent No.6184923).

Mizumoto and Mullick et al teach all the elements of the current invention except for expressly disclosing a magnifying device. In the same field of endeavor, Miyazaki teaches an additional component to an in-vivo imaging device which can be added in order to magnify the images (Col.5 Lns 1-15). At the time of the invention it would have been obvious to a person of ordinary skill in the art to modify Mizumoto and Mullick et al to include a magnifying device, in order to provide multiple kinds of image observation of the imaging device, (Col.2 Ln.19-30).

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-2 and 4-33 have been considered but are moot in view of the new ground(s) of rejection. In addition, the claim objections have been withdrawn in light of applicant's remarks and amendments.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the

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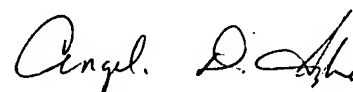
shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Rozanski whose telephone number is 571-272-1648. The examiner can normally be reached on Monday - Friday, 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Casler can be reached on 571-272-4956. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
MR



ANGELA D. SYKES  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700



# Index of Claims



Application/Control No.

10/812,908

Examiner

Michael Rozanski

Applicant(s)/Patent under Reexamination

IDDAN, GAVRIEL J.

Art Unit

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✓	Rejected
=	Allowed

—	(Through numeral) Cancelled
÷	Restricted

N	Non-Elected
I	Interference

A	Appeal
O	Objected

Claim		Date									
Final	Original	11/16/07									
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